

§ 1274a.9

under section 274A of the Act are contained in 28 CFR part 68. The regulations governing employment eligibility and verification in 8 CFR part 274a are applicable to hearings before an administrative law judge and, to the extent relevant, to cases before an immigration judge or the Board of Immigration Appeals.

[74 FR 2340, Jan. 15, 2009]

§ 1274a.9 Enforcement procedures.

(a)–(d) [Reserved]

(e) *Request for Hearing Before an Administrative Law Judge.* If a respondent contests the issuance of a Notice of Intent to Fine, the respondent must file with the DHS, within thirty days of the service of the Notice of Intent to Fine, a written request for a hearing before an Administrative Law Judge. Any written request for a hearing submitted in a foreign language must be accompanied by an English language translation. A request for a hearing is not deemed to be filed until received by the DHS office designated in the Notice of Intent to Fine. In computing the thirty day period prescribed by this section, the day of service of the Notice of Intent to Fine shall not be included. If the Notice of Intent to Fine was served by ordinary mail, five days shall be added to the prescribed thirty day period. In the request for a hearing, the respondent may, but is not required to, respond to each allegation listed in the Notice of Intent to Fine.

(f) *Failure to file a request for a hearing.* If the respondent does not file a request for a hearing in writing within thirty days of the date of service of a Notice of Intent to Fine (thirty-five days if served by ordinary mail), the final order issued by DHS shall not be subject to a hearing before an administrative law judge under 28 CFR part 68.

[52 FR 16221, May 1, 1987, as amended at 53 FR 8613, Mar. 16, 1988; 55 FR 25935, June 25, 1990; 56 FR 41786, Aug. 23, 1991; 61 FR 52236, Oct. 7, 1996; 74 FR 2340, Jan. 15, 2009]

§ 1274a.10 Penalties.

The regulations pertaining to the imposition of penalties for violations of the provisions of section 274A of the Immigration and Nationality Act are

8 CFR Ch. V (1–1–10 Edition)

contained in 8 CFR part 274a and 28 CFR part 68.

[73 FR 10136, Feb. 26, 2008]

§ 1274a.11 [Reserved]

Subpart B [Reserved]

PART 1280—IMPOSITION AND COLLECTION OF FINES

Sec.

1280.1 Notice of intention to fine; administrative proceedings not exclusive.

1280.2 Special provisions relating to aircraft.

1280.3 Departure of vessel or aircraft prior to denial of clearance.

1280.4 Data concerning cost of transportation.

1280.5 Mitigation or remission of fines.

1280.6 Bond to obtain clearance; form.

1280.7 Approval of bonds or acceptance of cash deposit to obtain clearance.

1280.11 Notice of intention to fine; procedure.

1280.12 Answer and request or order for interview.

1280.13 Disposition of case.

1280.14 Record.

1280.15 Notice of final decision to district director of customs.

1280.21 Seizure of aircraft.

1280.51 Application for mitigation or remission.

1280.52 Payment of fines.

1280.53 Civil monetary penalties inflation adjustment.

AUTHORITY: 8 U.S.C. 1103, 1221, 1223, 1227, 1229, 1253, 1281, 1283, 1284, 1285, 1286, 1322, 1323, and 1330; 66 Stat. 173, 195, 197, 201, 203, 212, 219, 221–223, 226, 227, 230; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

SOURCE: 22 FR 9807, Dec. 6, 1957, unless otherwise noted. Duplicated from part 280 at 68 FR 9844, Feb. 28, 2003.

EDITORIAL NOTE: Nomenclature changes to part 1280 appear at 68 FR 9846, Feb. 28, 2003.

§ 1280.1 Notice of intention to fine; administrative proceedings not exclusive.

Whenever a district director or the Associate Commissioner for Examinations, or the Director for the National Fines Office has reason to believe that any person has violated any of the provisions of the Immigration and Nationality Act and has thereby become liable to the imposition of an administrative fine under the Immigration and

Executive Office for Immigration Review, Justice

§ 1280.5

Nationality Act, he shall cause a Notice of Intention to Fine, Form I-79, to be served as provided in this part. Nothing in this subchapter shall affect, restrict, or prevent the institution of a civil suit, in the discretion of the Attorney General, under the authority contained in section 280 of the Immigration and Nationality Act.

[22 FR 9807, Dec. 6, 1957, as amended at 54 FR 18649, May 2, 1989]

§ 1280.2 Special provisions relating to aircraft.

In any case in which the imposition of a fine is predicated upon an alleged violation of a regulation promulgated under authority of section 239 of the Immigration and Nationality Act, the procedure prescribed in this part shall be followed and the aircraft involved shall not be granted clearance pending determination of the question of liability to the payment of any fine, or while the fine remains unpaid; but clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine or of a bond with sufficient surety to secure the payment thereof, approved by the Commissioner. If the alleged violation was by the owner or person in command of the aircraft, the penalty provided for shall be a lien against the aircraft, which, except as provided in § 1280.21, shall be seized by the district director or by an immigration officer designated by the district director, and placed in the custody of the customs officer who is in charge of the port of entry or customs station nearest the place of seizure. If the owner or owners of the airport at which such aircraft is located are the owners of the seized aircraft, the aircraft shall be removed to another suitable place for storage if practicable.

[22 FR 9807, Dec. 6, 1957, as amended at 32 FR 17651, Dec. 12, 1967; 56 FR 26020, June 6, 1991]

§ 1280.3 Departure of vessel or aircraft prior to denial of clearance.

If any vessel or aircraft which is subject to the imposition of a fine shall have departed from the United States prior to the denial of clearance by the district director of customs and such vessel or aircraft is subsequently found in the United States, a Notice of Inten-

tion to Fine, Form I-79, shall be served as provided in this part, if such form has not been previously served for the same violation. Clearance of such vessel or aircraft shall be withheld by the district director of customs, and the procedure prescribed in this part shall be followed to the same extent and in the same manner as though the vessel or aircraft had not departed from the United States. Aircraft subject to the provisions of § 1280.2, which shall have departed from the United States prior to the time of seizure could be effected, shall be subject to all of the provisions of this part, if subsequently found in the United States, to the same extent as though it had not departed from the United States.

[22 FR 9807, Dec. 6, 1957, as amended at 32 FR 17651, Dec. 12, 1967]

§ 1280.4 Data concerning cost of transportation.

Within five days after request therefor, transportation companies shall furnish to the district director or the Associate Commissioner for Examinations, or the Director for the National Fines Office pertinent information contained in the original transportation contract of all rejected aliens whose cases are within the purview of any of the provisions of the Immigration and Nationality Act relating to refund of passage monies, and shall specify the exact amounts paid for transportation from the initial point of departure (which point shall be indicated) to the foreign port of embarkation, from the latter to the port of arrival in the United States and from the port of arrival to the inland point of destination, respectively, and also the amount paid for headtax, if any.

[22 FR 9807, Dec. 6, 1957, as amended at 54 FR 18649, May 2, 1989]

§ 1280.5 Mitigation or remission of fines.

In any case in which mitigation or remission of a fine is authorized by the Immigration and Nationality Act, the party served with Notice of Intention to Fine may apply in writing to the